



W.P(MD)No.3718 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3718 of 2023

and

W.M.P(MD)No.3503 of 2023

Duraipandi

... Petitioner

Vs

1.The Tahsildar,
Tahsildar Office,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.

2.The Head Surveyor,
Tahsildar Office,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.

3.Ayyar Devar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order in Na.Ka.No.5351/2022/E4 passed in unspecified date in February, 2023 on the file of the first respondent and quash the same and to pass directions forbearing the respondents 1 and 2 from undertaking any action for surveying the Ayan Punja land comprised in Old Survey No.435/5 and New



W.P(MD)No.3718 of 2023

Survey No.96/5 to an extent of 0.48.50 Ares (1 acre 20 cents) situated at Sathankudi Village Bit II, Thirumangalam Sub-Registrar Office Jurisdiction limits, Thirumangalam Taluk, Madurai District.

For Petitioner : Mr.V.Malaiyendran
For Respondents : Mr.A.K.Manikkam
Special Government Pleader
for R.1 & R.2

Notice Dispensed With for R.3

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2. Considering the nature of relief to be granted, issuance of notice to the third respondent is dispensed with.

2.The third respondent herein filed W.P(MD)No.14732 of 2022 for conducting survey. The said writ petition was disposed of in the following directions:

“2. The Writ Petition is disposed of with the following directions:-

(I) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.



W.P(MD)No.3718 of 2023

(II) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(III) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(IV) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(V) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection. No costs.”

Pursuant to the said direction, the first respondent issued notice to the interested persons. The petitioner offered his objections. Instead of considering the objections lodged by the petitioner, the first respondent had passed the impugned rejection order. It is obvious that the first respondent has completely misunderstood the order passed by this Court. This Court had specifically mandated that the first respondent must consider and pass speaking order on the objection lodged by the rival parties. Such an order shall be served on the



W.P(MD)No.3718 of 2023

objector. But survey should not be conducted immediately thereafter. The objector must be given breathing time. If within six weeks the objector is unable to obtain restraint order from the jurisdictional civil Court, the survey can very well go on and even police aid can be availed. But this has been understood by the first respondent as I had stated that survey can go on if the objector is unable to obtain an interim order from the jurisdictional civil Court. This Court never meant any thing of that sort. The objector will have to go to the Court concerned only after the Tahsildar passes an order rejecting the objections. In this case, the first respondent had forgotten that such a stage exists. The order impugned in this writ petition is set aside. The matter is remanded to the file of the first respondent. The first respondent shall adhere to the directions set out in the order dated 18.08.2022 in W.P(MD)No.14732 of 2022.

3.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions is closed.

23.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA



W.P(MD)No.3718 of 2023

To

1. The Tahsildar,
Tahsildar Office,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.

2. The Head Surveyor,
Tahsildar Office,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.



WEB COPY



W.P(MD)No.3718 of 2023

G.R.SWAMINATHAN, J.

MGA

W.P(MD)No.3718 of 2023

and

W.M.P(MD)No.3503 of 2023

23.02.2023